

STATE OF TENNESSEE

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Opinion No. 05-057

Funding for Regional Planning Commission

QUESTIONS

1. The Johnson City Planning Commission has been designated as a regional planning commission for a certain area. Would it be lawful for the City, through its city manager, to hire, supervise, and discipline the individuals designated as staff of this planning commission?
2. If the answer to Question 1 is no, what are the appropriate steps for the planning commission to take in order to secure funding for necessary staff from the city and the counties in which the regional planning commission has territory?
3. What happens if the city and the counties fail to allocate funding?

OPINIONS

1. No.
2. Municipal planning expenses of the commission, to the extent they are not covered by gifts, should be paid by the city. A regional planning commission may seek funding from the Tennessee Department of Economic and Community Development; may seek grants; or may be funded under an agreement among the local governments within the region.
3. No statute requires either the city or any of the counties where a regional planning commission is located to fund the commission at a particular level. The statutory scheme does not specify the consequences of failure to fund commission operations. Presumably, the commission would have to confine its operations to those for which adequate funding is available.

ANALYSIS

1. Authority of City to Hire and Discipline Regional Planning Staff

This opinion concerns staffing for a regional planning commission. Research indicates that the Johnson City Planning Commission has been designated a regional planning commission with planning authority over the city and some adjacent territory. Both the city boundaries and the adjacent territory are located in three different counties — Washington, Sullivan, and Carter. The

first question is whether Johnson City, through its manager, is authorized to hire, supervise, and discipline the individuals designated as staff of the regional planning commission.

Under Tenn. Code Ann. §§ 13-4-101, *et seq.*, the chief legislative body of a city may establish a municipal planning commission. The municipal planning commission may adopt a plan for the development of the city as well as a zoning ordinance. Tenn. Code Ann. § 13-4-201; Tenn. Code Ann. § 13-7-201. The city legislative body may then enact a zoning ordinance. Tenn. Code Ann. § 13-7-202.

Regional planning commissions are created and operate under Tenn. Code Ann. §§ 13-3-101, *et seq.* Under that statutory scheme, the Tennessee Department of Economic and Community Development may create and establish planning regions and define the boundaries of each region. Tenn. Code Ann. § 13-3-102. These powers are now exercised by the Local Government Planning Advisory Committee under Tenn. Code Ann. § 4-3-727(f)(2). Generally, a regional planning commission is required to make and adopt a general regional plan for the physical development of the territory of the region. Tenn. Code Ann. § 13-3-301(a). Once a regional planning commission has adopted and filed its plan with the county register of the county or counties that lie in whole or in part in the region, then the regional planning commission must approve any plat of a subdivision of land within the region before the plat may be filed with the county register. Tenn. Code Ann. § 13-3-402.

Under Tenn. Code Ann. § 13-3-102, read in conjunction with Tenn. Code Ann. § 4-3-727(f)(2), the Local Government Planning Advisory Committee may designate the municipal planning commission of each city as a regional planning commission with respect to territory outside its boundaries. A municipal planning commission that has been designated a regional planning commission has different planning authority, depending on whether it is dealing with city land or land outside the city boundaries with respect to which it has been designated a regional planning commission. Op. Tenn. Att’y Gen. 94-089 (August 26, 1994).

The first question is whether the City of Johnson City, through its city manager, is authorized to hire, supervise, and discipline the individuals designated as staff of this planning commission. The Johnson City Planning Commission is a municipal planning commission designated as a regional planning commission with regard to certain territory outside its city boundaries. Under Tenn. Code Ann. § 13-4-102, a municipal planning commission may “appoint such employees and staff as it may deem necessary for its work, and may contract with city planners and other consultants for such services as it may require.” Tenn. Code Ann. § 13-3-103 addresses the organization of regional planning commissions. Under that statute, the commission, with the approval of the Department of Economic and Community Development, has the power to appoint and fix the compensation of an executive engineer secretary. A regional commission also has the power and authority to “appoint and fix the compensation of such other employees and staff as it may deem necessary for its work, and may contract with planners and other experts for such services as it may require.” Tenn. Code Ann. § 13-3-103. The city manager of Johnson City, therefore, is not authorized to hire, supervise, and discipline the individuals designated as staff of the Johnson

City Planning Commission. That authority rests with the commission. Op. Tenn. Att’y Gen. 98-211 (November 23, 1998).

2. Funding for the Johnson City Planning Commission

The next question concerns the appropriate steps for the planning commission to take in order to secure funding for necessary staff from the city and the counties in which the regional planning commission has territory. As discussed above, the Johnson City Planning Commission is a municipal planning commission designated as a regional planning commission with regard to territory outside its city boundaries. Under Tenn. Code Ann. § 13-4-102, the expenditures of a municipal planning commission, exclusive of gifts, must be within the amounts appropriated for that purpose by the chief legislative body. Municipal planning expenses of the commission, therefore, should be paid by the city. The city may also pay other expenses of the commission. Op. Tenn. Att’y Gen. 79-305 (June 27, 1979) (in the absence of any agreement with a county, the city should pay the legal expenses to defend a city planning commission designated as a regional planning commission with regard to land outside the city boundaries).

With regard to funding, Tenn. Code Ann. § 13-3-103 provides:

The expenditures of any regional planning commission in any year shall be within the amount approved for the purpose by the department [of Economic and Community Development]. Any regional commission may receive from the department, and the department may, out of its own available funds or appropriations, contribute moneys to such regional commission to assist it in financing its work, and the regional commission may receive gifts from other sources. Insofar as the expenditure of any regional planning commission is not covered by such contribution or gifts, the legislative body or bodies of each county lying wholly or partly within the region, and the board of aldermen or commissioners or other chief legislative body or bodies of the municipality or municipalities within the region, may agree upon the proportion of such expenditure which is to be borne by such county, counties, municipality or municipalities respectively, and may levy and appropriate the funds necessary for the respective shares as thus agreed upon and, upon the orders or vouchers signed by the chair of the regional planning commission, the county executive of any such county or the appropriate office of any such municipality is empowered and directed to draw warrants upon the county or municipal treasury in accordance with such agreement. Each regional planning commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

A regional planning commission, therefore, may seek funding from the Tennessee Department of Economic and Community Development; may seek grants; or may be funded under an agreement among the local governments within the region.

3. Consequences of Failing to Fund Operations of the Johnson City Planning Commission

The last question concerns the consequences if the city or counties fail to appropriate funds for the Johnson City Planning Commission. No statute requires either the city or any of the counties where a regional planning commission is located to fund the commission at a particular level. With regard to a regional planning commission, the statute clearly provides that the city and counties may agree to share regional planning expenses, but does not require such agreement. The statutory scheme does not specify the consequences of failure to fund commission operations. Presumably, the commission would have to confine its operations to those for which adequate funding is available.

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